DETAILED ACTION

CONTINUED EXAMINATION UNDER 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/23/2010 has been entered.

INTERVIEW SUMMARY

2. The interview mainly focused on getting a clear understand of applicant's claimed invention, wherein the examiner requested the applicant to provide a real world example reflecting the heart/core of applicant's invention, and applicant in response, provided the following explanation:

A real world example would be a device receiving a data and a metadata for the data, utilized the received metadata in combination with a tree architecture to acquire a content type, and utilizing the content type to determine a corresponding executable for the data.

In response, the examiner inquired how is the utilization of the tree architecture to accomplish the functionality of identifying the executable germane to applicant's invention, and applicant responded that the utilization of the tree architecture for

identifying the executable is not special, it is another/different way/option/method for identifying the executable and that no one ever thought of identifying the executable in this manner; and the examiner further inquired if the use of the tree architecture for identifying the executable is better or more efficient then how it is accomplished conventionally via metadata, and applicant responded that applicant's invention is not necessary better or more efficient, but applicant's invention is different from convention methodology.

The examiner then requested for further clarification as to what is applicant's invention, and in response, applicant stated that the invention is in the claimed language which corresponds to a different way/option/method for identifying the executable.

In summary, based on applicant's explanation above and the interview dated 06/19/2010:

"… The interview focused on getting a better understanding of the instant invention, wherein the examiner provided the following real world example for the instant invention:

Having a mobile device receiving data such as a word document, wherein the received data include metadata, and the mobile device determines to initiate the word program to read the received word document based on examining the received metadata. That is the invention is associated with utilizing the received data's metadata to determine what program/executable is call upon to render the received data …,"

it is the examiner's best understanding that the core/heart of applicant's invention for utilizing the tree architecture to accomplish the functionality of identifying the executable is functionally equivalent to the utilization of the metadata for identifying the executable, because applicant explained that it is not special to use the tree architecture for identifying the executable as applicant's invention is providing another/different

way/option/method for accomplishing the same functionality as the methodology associated with the conventional metadata.

RESPONSE TO ARGUMENTS

3. Applicant's arguments filed 09/23/2010 have been fully considered but they are not persuasive. Currently, claims 2, 11, 29-33 and 42 are canceled, claims 17-28, 34-40 and 43-44 are withdrawn, and claims 1, 3-10, 12-16, 41 and 45-49 are pending for examination.

4. In response to applicant's arguments with regard to the independent claims 1 and 41 rejected under 35 U.S.C. 103(a) that the combination of the references does not teach/suggest the claimed feature "… receiving **a command to execute on first data without providing identification information of any executable for the first data**; determining, from metadata of the first data, a content type of the first data; determining to identify an executable using **the content type**; and determining to operate on the first data using the identified executable …" because:

- Rao's command includes identification information of an executable for updating firmware and Szeto's second command specifies a supporting executable (i.e., media player) to render the media player data;

- Rao's firmware update packages do not concern media content type that may be described as a "Type" element according DTD as Rao's firmware update does not

need to know media content type or use the content type information to determine an executable; and

- the asserted motivation to combine Rao, DTD, and Szeto: to provide a reliable system and method for IM users to execute and control applications in an IM environment according to Szeto, is logically irreverent to Rao's firmware updates, let alone using SyncML DM to support firmware updates in Rao;

applicant's arguments have fully been considered, but are not found to be persuasive.

The examiner respectfully disagrees, because Szeto's does not teach utilizing the second command specifies a supporting executable, and the examiner request the applicant to cite where in Szeto discloses the utilizing of the second command for specifying the supporting executable; additionally, the combination of Rao, DTD, and Szeto does teach "… a command to execute on first data without providing identification information of any executable for the first data …" and "… identify an executable using the content type …" as:

Rao teaches a command to execute on first data using an executable in association with utilization of metadata (Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19 and col. 8, l. 25 to col. 12, l. 19).

SyncML Meta-Information DTD teaches the metadata indicating a content type (Sec. 3-5 on pp. 5-12), as it is well known that metadata is data about data and SyncML

have meta-information such as parameter or attributes that are about type or content of data; therefore, metadata may be utilized for determining the content type of data.

Szeto teaches command (e.g. initial command) to execute on data (e.g. data associated with the supporting application) without providing identification information of any executable for the data (e.g. as the initial command is received for executing an application for IM message, wherein the IM message includes the data for the supporting application and wherein the initial command identifies the application for the IM message and do no identify the supporting application for the data) … and … identify an executable using an identifier (e.g. after the application is executed to rendering the IM message and upon further examination of the IM message in association with the identifier, it is determined that supporting application is needed and launched) (Fig. 12A; col. 1, ll. 55-58; col. 7, ll.48-53; and col. 12, l. 66 to col. 13, l. 16).

Therefore, by combining Szeto's identification of the supporting application with Rao's command for executing on first data and associated metadata and DTD's metadata indicating the content type, the resulting combination does teach/suggest the above claimed feature for receiving the command to execute on the first data (e.g. data associated with the supporting application) without providing identification information of any executable for the first data (e.g. as the initial command is received for executing the application for the IM message, wherein the IM message includes the data for the supporting application and wherein the initial command identifies the application for the IM message and do no identify the supporting application for the data) … identify the executable (e.g. the supporting application) using the content type (e.g. after the

application is executed to rendering the IM message and upon further examination of the IM message in association with the supporting application identifier/metadata indicating the content type, it is determined that the supporting application is needed and launched); therefore, the combination of the references is functionally equivalent to the core/heart of applicant's invention.

Furthermore, Rao does not disclose that if media content type was known or the content type information was used to determine an executable Rao's invention would not function or that Rao's invention cannot be utilized in association with media content type; additionally, it is well known for mobile phone or PDA (as disclosed by Rao) to include IM application (as disclosed by Szeto) that communicated utilizing XML protocol (as disclosed by Rao and Szeto), as shown in extrinsic evidence Zafar et al. (US Patent 7,142,646) in column 4, line 63 to column 5, line 23; therefore, the motivation to combine Rao, SyncML Meta-Information DTD, and Szeto to provide a reliable system and method for IM users to execute and control applications in an IM environment according to Szeto is not logically irreverent to Rao's firmware updates which utilizing mobile phone or PDA that communicates via XML protocol, and the use of SyncML DM to support firmware updates in Rao is not logically irreverent either as Rao's system operate in accordance SyncML standard.

5. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon

hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

6. In response to applicant's arguments with regard to the dependent claim 8 rejected under 35 U.S.C. 103(a) that the combination of the references does not teach/suggest the claimed feature "… determining to **parse a content type of the first data based upon the node**, wherein the content type of the first data is stored at the electronic device according to the node …" because Rao merely uses the management tree and SyncML DM to support firmware updates, such as verifying and then storing a firmware update package, etc. (col. 5, line 65 to col. 6, line 4) and Rao does not "parse a content type of the first data based upon the node" in the management tree and to identify an executable based upon the content type of the data; and Szeto simply does not specify how the application type is determined; applicant's arguments have fully been considered, but are not found to be persuasive.

The examiner respectfully disagrees, because as discussed in detail above that the resulting combination of the references is functionally equivalent to applicant's invention, wherein Rao teaches parsing (e.g. by XML parser) of the first data based upon the node (e.g. node associated with the tree) and SyncML Meta-Information DTD

teaches the content type; therefore, the resulting combination of the references is functionally equivalent to the above claimed feature.

I. OBJECTIONS TO THE CLAIMS

7. Claims 8-9 and 16 are objected to because of the following informalities:

in claim 8, line 1, "… base upon the node …" should be replaced with -… base upon a node …-;

in claim 9, line 2, "… at the node of the hierarchical …" should be replaced with -… at a node of a hierarchical …-; and

in claim 16, line 3, "… update the hierarchical …" should be replaced with -… update a hierarchical …-.

Please note that the request for the replacements as stated above is for the purpose to improve the clarity of the claim language. Appropriate correction is required.

II. REJECTIONS BASED ON PRIOR ART

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 1, 3-10, 12-16, 41 and 45-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rao et al. (US Patent 6,978,453) in view of "SyncML Meta-Information DTD" and Szeto (US Patent 7,188,143).

9. As per claim 1, Rao teaches a method comprising: receiving at an electronic device (Fig. 1, ref. 107) a command (e.g. update command) to execute on first data(e.g. as execution of the first data is associated with firmware update data); utilizing, at the electronic device, metadata protocol associated with the first data; determining to identify at the electronic device a property of the first data (e.g. as the received command is determined to identify by the electronic device to have the property associated with firmware updating); and determining to operate on the first data using an executable (e.g. module) (e.g. as the module would operate on the firmware update data via downloading and updating processes) (Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19 and col. 8, l. 25 to col. 12, l. 19).

Rao does not teach the method comprising: without providing identification information of any executable for the first data; determine content type from the metadata for the first data;identifying an executable using the content type; and operating via the identified executable.

SyncML Meta-Information DTD" teaches the metadata indicating a content type (Sec. 3-5 on pp. 5-12), as it is well known that metadata is data/information about data and SyncML have meta-information such as parameter or attributes that are about type

or content of data; therefore, metadata may be utilized in association for determining the content type of data.

Szeto teach a system and method comprising:

without providing identification information of any executable for the first data (Fig. 12A; col. 1, ll. 55-58; col. 7, ll.48-53; and col. 12, l. 66 to col. 13, l. 16), as the supporting application is not identified by an initial command for IM message, wherein the initial command would only identify an application for rendering the IM message, and only upon further examination is the need for the supporting application determined/identified via application type identifier; therefore, by combining the determination/identifying the need of the supporting application with Rao's mobile phone/PDA/electronic device communicating over network via XML protocol including the first data, the resulting combination of the references further teaches the above claimed feature;

determine content type from the metadata for the first data; identifying an executable using the content type; and operating via the identified executable (Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; and col. 12, l. 66 to col. 13, l. 16), by combining the determination/identifying the need of supporting application with Rao's mobile phone/PDA/electronic device communicating over network via XML protocol including the first data and SyncML Meta-Information DTD's metadata and content type, the resulting combination of the references is functionally equivalent to the above claimed feature in association with determining/identifying the executable to operate on the first data utilizing the application type identifier/metadata indicating content type (e.g. both

the application type identifier and the metadata indicating content type are data/information about data, wherein the application type identifier is data/information about data for determining/identifying the corresponding executable); wherein the above functional equivalency to determining the executable is based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010.

It would have been obvious for one of ordinary skill in this art, at the time of invention was made to include SyncML Meta-Information DTD's content type and metadata and Szeto's identification of the executable into Rao's operation on the first identified data for the benefit of properly operating in accordance SyncML standard as in Rao's system and also for the benefit to the having a reliable system and method for a user to execute and control application (Szeto, col. 2, ll. 30-33) to obtain the invention as specified in claim 1.

10. As per claim 3, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teaches the method comprising wherein the command contains the metadata of the first data, and the metadata includes an identifier of the first data (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the

applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features.

11. As per claim 4, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 3 as discussed above, where Rao further teaches the method comprising wherein the identifier identifies a node of a hierarchical nodular data structure (e.g. tree data structure) stored at the electronic device (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19).

12. As per claim 5, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 4 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teaches the method comprising wherein the command is an exec command and the identifier is a uniform resource identifier contained within a source element corresponding to the node in the hierarchical nodular data structure (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features.

13. As per claim 6, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where Rao and Szeto further teach the method comprising wherein the command is received as extensible markup language code (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16).

14. As per claim 7, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 6 as discussed above, where Rao further teaches the method comprising wherein the command is a SyncML command (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; and col. 8, l. 25 to col. 12, l. 19).

15. As per claim 8, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teach the method further comprising determining to parse a content type of the first data based upon a node, wherein the content type of the first data is stored at the electronic device according to the node (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the

interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features.

16. As per claim 9, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 6 as discussed above, where Rao further teaches the method comprising wherein the content type of the first data is stored at a node of a hierarchical nodular data structure (e.g. tree data structure) (Rao, col. 3, ll. 52-63; col. 6, l. 49 to col. 7, l. 19; col. 8, ll. 25-34 and col. 11, l. 48 to col. 12, l. 19), as the data would be store in the node of the tree data structure.

17. As per claim 10, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 9 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teach the method comprising wherein the node is a leaf node that identifies the content type of the first data (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features.

18. As per claim 12, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where SyncML Meta-Information DTD and Szeto further teach the method comprising wherein the content type is determined by at least one of the value of a format element and the value of a type element associated with the first data (SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16).

19. As per claim 13, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teaches the method comprising determining to associate a plurality of different executables (e.g. different supporting applications for movie trailer, game, animation cartoon, advertisement, flash presentation) with each of a plurality of different content types (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features, as each different content types have the corresponding supporting application.

20. As per claim 14, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teach the method comprising wherein the executable is identified using the content type and a look-up table (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features as the executable is identified.

21. As per claim 15, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 13 as discussed above, where Rao and Szeto further teach the method comprising wherein the plurality of different executables are stored in the electronic device (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), as the electronic devise would have the corresponding supporting application for operating the first data.

22. As per claim 16, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where Rao, SyncML Meta-Information DTD

and Szeto further teach the method comprising before receiving the command specifying execution of the first data, determining to create or update a hierarchical nodular data structure (e.g. tree data structure) at the electronic device (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 41; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features, as the executable is determined and as the tree data structure is created prior to the execution of the command.

23. As per claims 41 and 49, independent claims 41 and 49 are rejected base on the same rational as the rejection for independent claim 1, as claim 41 is a computer readable storage medium and claim 49 is an apparatus implementing the method of claim 1.

24. As per claim 45, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teach the method comprising wherein the command excludes information of the content type of the first data (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 41; col. 8, l. 25 to col. 12, l. 19;

SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features as the executable is determined.

25. As per claim 46, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 16 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teach the method comprising before receiving the command specifying execution of the first data, determining to create the node or a sub-tree including the node in the hierarchical nodular data structure at the electronic device (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 41; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features as the executable is determined and as the tree data structure is created prior to the execution of the command.

26. As per claim 47, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 12 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teach the method comprising wherein the executable is identified using a look-up table and the at least one of the value of the format element and the value of the type element (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 41; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features as the executable is determined.

27. As per claim 48, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teach the method comprising wherein the first data includes media content data (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 41; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features as the executable is determined.

III. PERTINENT PRIOR ART NOT RELIED UPON

Zafar et al. (US Patent 7,142,646) expressly shows that it is well known for mobile phone or PDA to include IM application that communicated utilizing XML protocol in column 4, line 63 to column 5, line 23.

IV. CLOSING COMMENTS

Conclusion

a. STATUS OF CLAIMS IN THE APPLICATION

The following is a summary of the treatment and status of all claims in the application as recommended by **M.P.E.P. 707.07(i)**:

a(1) CLAIMS REJECTED IN THE APPLICATION

Per the instant office action, claims 1, 3-10, 12-16, 41 and 45-49 have received a first action on the merits and are subject of a first action non-final.

b. DIRECTION OF FUTURE CORRESPONDENCES

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chun-Kuan (Mike) Lee whose telephone number is (571) 272-0671. The examiner can normally be reached on 8AM to 5PM.

IMPORTANT NOTE

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alford Kindred can be reached on (571) 272-4037. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chun-Kuan Lee/
Primary Examiner
Art Unit 2181
December 20, 2010